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January 25, 2008

**MEMO ENDORSED**

**By Hand Delivery**

The Honorable Robert P. Patterson  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

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*Steinberg v. Ericsson LM Telephone Co., et al., 07-CV-9615 and 07-CV-10659*

Dear Judge Patterson:

We are counsel for defendants Ericsson LM Telephone Co., Carl-Henric Svanberg, and Karl-Henrik Sundstrom ("Defendants") in the above-referenced action. We respectfully submit this letter (a) in response to the motions recently filed by various plaintiffs and their counsel requesting consolidation and/or coordination of this action with related actions and appointment as lead plaintiff and lead counsel and (b) to raise an issue regarding this Court's subject matter jurisdiction.

First, Defendants support the consolidation and coordination of related actions in this Court.

*Opposition granted.*  
*In view of defendants' support of plaintiffs' motions for consolidation and coordination of related actions, Steinberg v. Ericsson LM Telephone Co., et al. 07-cv-09615 (RPP), State - Boston Retirement System v. Ericsson LM Telephone Co., et al. 07-cv-10659 (RPP), City of Edinburgh Council et al v. Ericsson LM Telephone Co., et al. 07-cv-11617 (RPP) are hereby consolidated.*  
*1/30/08* *so ordered* *Robert P. Patterson USPP*

**SEE TYPEWRITTEN MEMO  
ENDORSEMENT ATTACHED**

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Second, Defendants take no position on the pending applications for appointment of lead plaintiff and lead counsel pursuant to the Private Securities Litigation Reform Act (“PSLRA”), except to note that the Court’s ruling on these issues should not prejudice Defendants’ right to challenge the selection of lead plaintiff and lead counsel at the time of class certification or thereafter. *See, e.g., In re Oxford Health Plans Inc.*, 191 F.R.D. 369, 373 (S.D.N.Y. 2000) (“[T]he appointment of lead plaintiffs occurring as it does in advance of class discovery, is not a final ruling on their appropriateness as Class Representatives.”) (citations omitted); *see also Schulman v. Lumenis, Ltd.*, No. 02 Civ. 1989 (DAB), 2003 WL 21415287, at \*5 (S.D.N.Y. June 18, 2003) (“Any preliminary class certification findings of adequacy and typicality made at [the time of appointment of lead counsel] do not preclude any party from contesting the ultimate class certification.”) (citations omitted); *Koppel v. 4987 Corp.*, No. 96 Civ. 7570 (RLC), 1999 WL 608783, at \*8 (S.D.N.Y. Aug. 9, 1999) (“It should be noted, however, that [appointment of lead plaintiff] does not prejudice defendants’ capacity to contest plaintiffs adequacy on a motion for class certification.”) (citations omitted).

Third, we note that plaintiff Jacques Furher, at pages 9-11 of his opposition brief, argues that members of the purported Ericsson Institutional Investor Group may be subject to unique defenses because they are foreign investors and “[c]ourts...remain unwilling to appoint lead plaintiffs where there are uncertainties regarding whether a foreign court would later give *res judicata* effect of a judgment in favor of defendants.” *Id.* at 9. Indeed, Mr. Furher’s objection raises an even more important and fundamental issue, as this Court does not have subject matter jurisdiction over claims by plaintiffs who purchased their shares on a foreign exchange. *See, e.g., In re Parmalat Sec. Litig.*, 497 F. Supp. 2d 526, 540 (S.D.N.Y. 2007) (dismissing claims of foreign purchasers); *In re Nat'l Australia Bank Sec. Litig.*, No. 03 Civ. 6537(BSJ), 2006 WL 3844465, at \*3-8 (S.D.N.Y. Oct. 25, 2006) (dismissing the Lead Foreign Plaintiff from the action where, among other things, “the securities at issue . . . are predominantly foreign securities traded on foreign exchanges” “because th[e] Court lacks subject matter jurisdiction over their claims”); *In re Bayer AG Sec. Litig.*, 423 F. Supp. 2d 105, 113 (S.D.N.Y. 2005) (holding that the court lacks subject matter jurisdiction over the claims of foreign purchasers); *Interbrew S.A. v. Edperbrascan Corp.*, 23 F. Supp. 2d 425, 432 (S.D.N.Y. 1998) (dismissing claims of plaintiff that purchased shares trading on Canadian exchange).

Accordingly, Defendants respectfully reserve all rights to oppose any motion that relates to certification of a plaintiff class under Rule 23, and to take discovery regarding any such issues. Further, if, at this stage of the proceedings, the Court wishes to address the question of its subject matter jurisdiction to consider the claims of persons

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or entities that purchased securities on foreign exchanges, Defendants respectfully request the opportunity to submit a brief on the issue.

Respectfully submitted,



Daniel J. Kramer

:ACG

cc:      Samuel H. Rudman  
          Christopher J. Keller  
          Lawrence D. McCabe

Case: **Steinberg v. Ericsson LM Telephone Co., et al., and related cases**  
Index No. **07 Civ. 9615 (RPP) / 07 Civ. 10659 (RPP) / 07 Civ. 11617**

**MEMO ENDORSEMENT READS:**

*Application granted.*

*In view of defendants' support of plaintiffs' motions for consolidation and coordination of related actions, Steinberg v. Ericsson LM Telephone Co., et al., 07 Civ. 9615; State-Boston Retirement System v. Ericsson LM Telephone Co., et al, 07 Civ. 10659; and City of Edinburgh Council, et al. v. Ericsson LM Telephone Co., et al., 07 Civ. 11617, are hereby consolidated.*

*So ordered.*

*Robert P. Patterson, Jr., U.S.D.J., 1/30/08*